

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1403

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-30-6-7, AS AMENDED BY P.L.82-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) An action to abate or enjoin a nuisance may be brought by any person whose:

- (1) property is injuriously affected; or
- (2) personal enjoyment is lessened;

by the nuisance.

(b) A civil action to abate or enjoin a nuisance may also be brought by:

- (1) an attorney representing the county in which a nuisance exists; or
- (2) the attorney of any city or town in which a nuisance exists.

(c) A county, city, or town that brings a successful action under this section (~~or IC 34-1-52-2 or IC 34-19-1-2 before their repeal~~) to abate or enjoin a nuisance ~~caused by the unlawful dumping of solid waste~~ is entitled to recover reasonable attorney's fees incurred in bringing the action.

(d) A ~~forestry operation~~ **person** that successfully defends an action under this section is entitled to reasonable costs and attorney's fees incurred in defending the action.

SECTION 2. IC 36-1-20-1.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: **Sec. 1.5. As used in this chapter, "rental unit community" means one (1) or more parcels of contiguous real property upon which are located one (1) or more structures containing rental units, if:**

- (1) the combined total of all rental units in all of the structures is five (5) or more rental units; and**
- (2) the rental units are not occupied solely by the owner or the owner's family.**

SECTION 3. IC 36-1-20-2, AS ADDED BY P.L.212-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: **Sec. 2. (a) Except as provided in subsection (b), the owner of a rental unit assessed any ~~inspection, registration, or other~~ fee by a political subdivision pertaining to the rental unit may:**

- (1) notify the tenants of the rental unit of the assessment of the fee; and**
- (2) require the tenants of the rental unit to reimburse the owner for the payment of the fee.**

(b) Tenants of a rental unit may not be required to reimburse the owner of a rental unit for fees assessed by a political subdivision relating to the construction of the rental unit, such as building permit fees.

SECTION 4. IC 36-1-20-3, AS ADDED BY P.L.212-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: **Sec. 3. Any ~~inspection, registration, or other~~ fee assessed ~~under section 2 of this chapter~~ and collected by a political subdivision **pertaining exclusively to a rental unit or rental unit community** must be maintained in a special fund dedicated solely to reimbursing the costs ~~reasonably related to services actually performed~~ **incurred** by the political subdivision ~~that justified relating to~~ the imposition and amount of the fee. Each fund shall be maintained as a separate line item in the political subdivision's budget. Money in the fund may not at any time revert to the general fund or any other fund of the political subdivision.**

SECTION 5. IC 36-1-20-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014] **Sec. 3.5. (a) This section does not apply to a political subdivision with a rental registration or inspection program created before July 1, 1984.**

(b) A political subdivision may not require a rental unit's owner or landlord to do any of the following:

- (1) Except as provided in subsection (c), obtain a permit to**



lease the rental unit.

(2) Participate in a class or government program as a condition for leasing the rental unit.

(c) Notwithstanding subsection (b), a political subdivision may require a rental unit's owner or landlord to obtain a permit only as follows:

(1) A fee may not be charged to obtain a permit.

(2) Except when there is a change of ownership of the real property, a permit does not expire. A political subdivision may require a new owner of the real estate to obtain a new permit.

(3) Only one (1) permit may be required for a rental unit community.

SECTION 6. IC 36-1-20-4 IS REPEALED [EFFECTIVE JUNE 30, 2014]. Sec. 4. (a) As used in this section, "regulation" refers to an ordinance, rule, or other enactment by a political subdivision relating to any of the following:

(1) Landlord and tenant relations:

(2) Rental agreements:

(3) Real property subject to a rental agreement:

(b) A regulation that does any of the following may not be adopted after February 28, 2013:

(1) Requires an owner or landlord to be licensed or to obtain a permit from the political subdivision to lease a rental unit:

(2) Requires an owner or landlord to enroll or participate in a class or government program as a condition for leasing a rental unit:

(3) Imposes or increases a fee or other assessment for any of the following:

(A) Inspection of a rental unit:

(B) Registration of an owner, landlord, or rental unit:

(C) Any other purpose related to the purposes listed in subsection (a):

(c) This chapter does not prohibit a political subdivision from:

(1) establishing a rental unit inspection program; or

(2) imposing or increasing a fee relating to the construction of a rental unit, such as a building permit fee:

(d) This section expires July 1, 2014.

SECTION 7. IC 36-1-20-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: Sec. 4.1. (a) This section does not apply to a political subdivision with a rental registration or inspection program



created before July 1, 1984. This section does not apply to a manufactured housing community or mobile home community that is licensed, permitted, and inspected by the state department of health.

(b) Except as provided in subsection (c), this chapter does not prohibit a political subdivision from establishing and enforcing a program for inspecting rental units.

(c) Except as provided in subsection (d), after June 30, 2014, a political subdivision may not inspect a rental unit or impose a fee pertaining to the inspection of a rental unit, if the rental unit satisfies all of the following:

(1) The rental unit is:

(A) managed by; or

(B) part of a rental unit community that is managed by; a professional real estate manager.

(2) During the previous twelve (12) months, the rental unit has been inspected or is part of a rental unit community that has been inspected by either of the following:

(A) By or for:

(i) the United States Department of Housing and Urban Development, the Indiana Housing and Community Development Authority, or another federal or state agency; or

(ii) a financial institution or insurance company authorized to do business in Indiana.

(B) By an inspector who:

(i) is a registered architect;

(ii) is a professional engineer; or

(iii) satisfies qualifications for an inspector of rental units prescribed by the political subdivision.

The inspector may not be an employee of the owner or landlord.

(3) A written inspection report of the inspection under subdivision (2) has been issued to the owner or landlord of the rental unit or rental unit community (as applicable) that verifies that the rental unit or rental unit community is safe and habitable with respect to:

(A) electrical supply and electrical systems;

(B) plumbing and plumbing systems;

(C) water supply, including hot water;

(D) heating, ventilation, and air conditioning equipment and systems;



- (E) bathroom and toilet facilities;
- (F) doors, windows, stairways, and hallways;
- (G) functioning smoke detectors; and
- (H) the structure in which a rental unit is located.

A political subdivision may not add to the requirements of this subdivision.

(4) The inspection report issued under subdivision (3) is delivered to the political subdivision on or before the due date set by the political subdivision.

(d) This subsection applies to all rental units, including a rental unit that meets the requirements for an exemption under subsection (c). A political subdivision may inspect a rental unit, if the political subdivision:

- (1) has reason to believe; or
- (2) receives a complaint;

that the rental unit does not comply with applicable code requirements. However, in the case of a rental unit that meets the requirements for an exemption under subsection (c), the political subdivision may not impose a fee pertaining to the inspection of the rental unit. If an inspection of a rental unit reveals a violation of applicable code requirements, the owner of the rental unit may be subject to a penalty as provided in section 6 of this chapter.

(e) This subsection applies only to a rental unit that meets the requirements for an exemption under subsection (c). If the inspection report for the rental unit or rental unit community is prepared by or for the United States Department of Housing and Urban Development, the inspection report is valid for purposes of maintaining the exemption under subsection (c) until:

- (1) the date specified in the inspection report; or
- (2) thirty-six (36) months after the date of the inspection report;

whichever is earlier.

SECTION 8. IC 36-1-20-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: Sec. 5. (a) This section does not apply to a political subdivision with a rental registration or inspection program created before July 1, 1984.

(b) This chapter does not prohibit a political subdivision from establishing and enforcing a registration program for rental units within the political subdivision.

(c) A political subdivision may impose on an owner or landlord of a rental unit an annual registration fee of not more than five



dollars (\$5).

(d) A registration fee imposed under subsection (c) covers all the rental units in a rental unit community. However, if a rental unit is not part of a rental unit community, a registration fee may be imposed for each separate parcel of real property on which a rental unit is located.

(e) If the ownership of a rental unit community or the ownership of a parcel of real property on which a rental unit is located changes, a political subdivision may require the new owner of the rental unit community or new owner of the real estate parcel to:

- (1) pay an annual registration fee of not more than five dollars (\$5); and
- (2) provide updated registration information to the political subdivision;

not later than thirty (30) days after the change of ownership.

SECTION 9. IC 36-1-20-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: Sec. 6. (a) This chapter does not prevent a political subdivision from imposing and collecting a penalty for an act or omission that is a nuisance or violation of the political subdivision's enforceable ordinances or codes, subject to subsection (b).

(b) A penalty permitted under subsection (a) may not be imposed until after:

- (1) reasonable notice of the nuisance or violation has been given to the owner or the owner's designee;
- (2) passage of a reasonable time, which must be stated in the notice, for the nuisance or violation to be cured; and
- (3) failure of the nuisance or violation to be cured within the time stated in the notice.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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